



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,163	02/03/2004	Wilmer L. Sibbitt JR.	0023.0016	1880

40271 7590 07/24/2007
NOVAK DRUCE + QUIGG LLP
10415 SOUTHERN MARYLAND BLVD.
DUNKIRK, MD 20754

EXAMINER

BOUCHELLE, LAURA A

ART UNIT	PAPER NUMBER
----------	--------------

3763

MAIL DATE	DELIVERY MODE
-----------	---------------

07/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/772,163		SIBBITT, WILMER L.	
	Examiner		Art Unit	
	Laura A. Bouchelle		3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-15 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 5, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shields (US 5401249). Shields discloses a syringe comprising a barrel 11, a plunger 12, a narrow barrel portion 15 that is tapered, and a wide barrel portion 11, and a narrow plunger portion 16 and a wide plunger portion 14. See Fig. 2. The narrow portion of the barrel is coupled to a needle hub 19. The narrow plunger portion sealingly engages and moves within the narrow barrel portion. See Figs. 2-4.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 6, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields in view of Page et al (US 4923446). Claims 6, 9 differ from Shields in calling for the syringe to include a shield in slidable engagement with the barrel. Page teaches a syringe having a slidable shield that reduces the risk of accidental injury from needles (Col. 1, lines 25-29). Therefore, it

Art Unit: 3763

would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Shields to include a slidable shield as taught by Page to reduce the risk of accidental injury from needles.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dysarz (US 6099500) in view of Lineback (US 4936315). Dysarz discloses a kit of syringes including syringes having different volume capacities but having outside diameters at the proximal end 6 that that are substantially equal. See Fig. 3A. Each member of the syringe family can be coupled with the associated needle hub.

6. Claim 10 differs from Dysarz in calling for a false barrel surrounding the barrel. Lineback teaches a syringe having a barrel 12 having a plunger 20 with a resilient stopper 18 disposed therein, and a false barrel 16 surrounding the barrel 12 that allows the syringe to be attached to a fluid source (Col. 8, lines 39-40). See Fig. 2. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Dysarz to have a barrel surrounding the barrel as taught by Lineback.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dysarz in view of Lineback as applied to claim 10 above, and further in view of Page. Claim 11 differs from Dysarz in view of Lineback in calling for the syringe to include a shield in slidable engagement with the barrel. Page teaches a syringe having a slidable shield that reduces the risk of accidental injury from needles (Col. 1, lines 25-29). Therefore, it would have been obvious to one of

Art Unit: 3763

ordinary skill in the art at the time of invention to modify the device of Lineback to include a slidable shield as taught by Page to reduce the risk of accidental injury from needles.

8. Claims 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields in view of Dysarz. Claim 12 differs from Shields in calling for two or more syringes having different volume capacities. Dysarz teaches a kit having multiple syringes having different volume capacities so that the same needle hub can be used with the appropriately sized barrel. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Shields to include multiple syringes having different volume capacities as taught by Dysarz so that the system can be used with a barrel that is of the appropriate size for the intended use.

9. Claims 14, 15 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Shields in view of Dysarz as applied to claims 12, 13 above, and further in view of Lineback. Claims 14, 15 differ from Dysarz in calling for a false barrel surrounding the barrel. Lineback teaches a syringe having a barrel 12 having a plunger 20 with a resilient stopper 18 disposed therein, and a false barrel 16 surrounding the barrel 12. See Fig. 2. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Dysarz to have a barrel surrounding the barrel as taught by Lineback.

Response to Arguments

10. Applicant's arguments filed 5/16/07 have been fully considered but they are not persuasive.

11. Applicant argues that Shields does not teach a narrow barrel portion. The examiner points applicant to Fig. 4 of the Shields disclosure wherein there is clearly shown a narrow barrel portion of substantially constant diameter distal of the tapered portion and proximal to the larger diameter portion.

12. Applicant argues that Shields does not disclose a narrow plunger portion sized to sealingly engage and move within the narrow barrel portion. As can be seen in Fig. 3 of the disclosure, the narrow portion of the plunger moves within the narrow barrel portion and sealingly engages the needle hub. Applicant fails to claim that the narrow portion of the plunger sealingly engages the interior surface of the narrow barrel portion, only that the narrow portion moves within the narrow portion.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3763

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CATHERINE S. WILLIAMS
PRIMARY EXAMINER

Laura A Bouchelle
Examiner
Art Unit 3763

